

Remarks

Claims 14-26 have been canceled without prejudice in this Office Action. Claims 27-42 have been added. Applicants respectfully note that no new matter has been added. In order to expedite allowance of the instant application, the Applicants have included, in independent claims 27 and 35, various features similar to those used to gain allowance of co-owned patents 6,966,308 and 6,907,866; controlling the mixture of the vaporized amount of fuel and the amount of air to maintain a desired carbon level in an amount of combustion exhaust. Consequently, Applicants believe claims 27-42 are in condition for allowance and respectfully request the same.

Claim Objections

The Examiner objected to the claims because “[t]he numbering of the claims is not in accordance with 37 C.F.R. 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution.” The Examiner states, “[t]he record at the patent office contain only 8 claims, claims 9-13 are missing although they appear to have been submitted since BIB data states 13 original claims.” *Office Action*, p.2.

The Applicants have reviewed the file history and have concluded that this application originally contained 13 claims, not the 8 as noticed by the Examiner in the file history. While the original PCT application was filed with only 8 claims, in a subsequent action, “informal comments to written opinion” filed 5/9/2005 with the PCT ISA/US, claims 9-13 were added. These newly added claims were recognized as evidenced in the “International Preliminary Report on Patentability” as being novel, having inventive step, and industrial applicability. The report can be furnished to the Examiner if so desired. These claims, for whatever reason, were not included in the national entry of the application. Because the PCT Application, upon which this application is based, contains 13 claims, the Applicants contend that the original application contained 13 claims (which is also supported by the BIB database), and therefore, the current numbering of the claims is in conformity with 37 CFR 1.126. The Applicants respectfully request the Examiner withdraw their objections regarding the numbering of the claims.

Double Patenting

The Examiner rejected claims 14-21, and 22-26 on the ground of nonstatutory obviousness-type double patenting. The Applicants respectfully note that claims 14-26 have been canceled, thereby rendering their rejections moot. While the Applicants believe the newly added claims to be patentably distinct from the previously cited patents, the Applicants are willing to discuss a terminal disclaimer upon reaching a set of allowable claims. The Applicants, however, reserve the right to challenge the basis of the double patenting rejection.

Conclusion

Claims 27-42 are pending, and claims 14-26 have been canceled without prejudice. As set forth above, Applicants submit that these claims are allowable and thus respectfully request allowance of the same. If the examiner has any questions regarding the substance of this office action response, he is invited to contact the undersigned at 503-796-2408.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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